

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Date: February 2, 2001

Craig, et al.

Serial No.: Unassigned

Group Art Unit: Unassigned

Filed: Herewith

Examiner: Unassigned

For: DYNAMIC UPDATE PROXY

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

DECLARATION UNDER 37 C.F.R. 1.47
PROOF OF INVENTOR REFUSAL TO SIGN

Sir:

Nia Brett Schmald is a joint inventor of the present application, along with Peter Alan Craig.

On information and belief, on or around November 9, 2000, Nia Schmald terminated his employment with Coactive Networks, the assignee of the present application.

On information and belief, on December 15, 2000, Jackie Tanda obtained from Mr. Schmald, via e-mail, his residence address as 1543 Milvia Street, Berkeley, California. Attached as Exhibit A is a copy of the e-mail received by Ms. Tanda.

On or about December 27, 2000, I was informed by Ed Koch, the Chief Technology Officer at Coactive Networks, that Mr. Schmald may not cooperate in executing the formal papers for the present application.

On information and belief, on or about December 27, 2000, Ms. Tanda sent an e-mail to Mr. Schmald informing him that a final draft with formal papers for the present application will

be sent to his residence address via Federal Express. Attached as Exhibit B is a copy of the e-mail sent by Ms. Tanda.

On information and belief, on December 27, 2000, a copy of the final draft of the present application, including claims and drawings, and formal papers for the present application, was sent to Mr. Schmald via Federal Express (Federal Express package). Attached as Exhibit C is a copy of the Federal Express Airbill.

On information and belief, accompanying the Federal Express package was a cover letter from Ms. Tanda requesting that Mr. Schmald execute the formal papers and to return them to our office as soon as possible. A self-addressed Federal Express envelope was provided to Mr. Schmald for his convenience. Attached as Exhibit D is a copy of the cover letter.

On information and belief, the Federal Express package was delivered to Mr. Schmald on December 28, 2000, with no signature required. Attached as Exhibit E is a copy of the Federal Express tracking record for the Federal Express package.

On January 25, 2001, I had not yet received signed formal papers from Mr. Schmald. On January 25, 2001, I sent an e-mail to Mr. Schmald to further request that he sign the formal papers in the Federal Express package and return the papers to us. Attached as Exhibit F is a copy of the e-mail.

On January 29, 2001, I had not received a response from Mr. Schmald to my e-mail of January 25, 2001. I attempted to telephone Mr. Schmald at his last known phone number, (510) 337-9773. The number is not in service.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2/2/01
Date

Michele Liu
Michele Liu
Sawyer Law Group LLP
Attorney for Applicant(s)
Reg. No. 44,875
(650) 493-4540

DECLARATION AND POWER OF ATTORNEY FOR UTILITY PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below, next to my name,

I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

DYNAMIC UPDATE PROXY

the specification of which

X is attached hereto.

___ was filed on _____.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I do not know and do not believe that the same was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to this application, and said invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56 (a).

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119, of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)

Priority Claimed

| | | | | |
|-------------------|--------------------|---------------------------------|--------------|-------------|
| _____ (Number) | _____ (Country) | _____ (Day/Month/Year Filed) | _____ Yes | _____ No |
| _____ (Number) | _____ (Country) | _____ (Day/Month/Year Filed) | _____ Yes | _____ No |

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

| | | |
|-----------------------------------|------------------------|---|
| _____ (Application Serial No.) | _____ (Filing Date) | _____ (Status -- patented, pending, abandoned) |
| _____ (Application Serial No.) | _____ (Filing Date) | _____ (Status -- patented, pending, abandoned) |

I hereby appoint Joseph A. Sawyer, Jr., Reg. No. 30,801; Stephen G. Sullivan, Reg. No. 38,329; Janyce R. Mitchell, Reg. No. 40,095 and Michele Liu, Reg. No.: 44,875, of **SAWYER LAW GROUP LLP, located at 2465 E. Bayshore Rd., Suite 406, Palo Alto, California 94303, telephone (650) 493-4540**, as my attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

Address all telephone calls to **Joseph A. Sawyer, Jr.** at telephone number **(650) 493-4540** and all correspondence to:

SAWYER LAW GROUP LLP
P.O. Box 51418
Palo Alto, California 94303

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


Full Name of **first**/joint inventor: **Peter Alan Craig**

Residence Address: **111 Ross Avenue, Apt. C**
San Anselmo Marin California 94960
City County State Zip

Post Office Address: SAME

Country of Citizenship: **United States of America**

1/31/01
Date


Signature

| | | | | |
|---|---------------------------------|----------------|-------------------|-----|
| Full Name of second /joint inventor: | Nia Brett Schmal | | | |
| Residence Address: | 1543 Milvia Street | | | |
| | Berkeley | Alameda | California | |
| | City | County | State | Zip |
| Post Office Address: | SAME | | | |
| Country of Citizenship: | United States of America | | | |

Date _____

Signature